

Decision \_\_\_\_\_

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Black Cloud Networks, Inc.  
(U1292C) for a Certificate of Public  
Convenience and Necessity to Provide  
Local Exchange Switchless Resale  
Telecommunications Services throughout  
the State of California.

Application 14-09-017  
(Filed September 25, 2014)

**DECISION GRANTING WITHDRAWAL OF THE APPLICATION WITHOUT  
PREJUDICE AND GRANTING THE MOTION FOR LEAVE TO FILE  
CONFIDENTIAL MATERIAL UNDER SEAL****Summary**

This decision grants the request filed by Black Cloud Networks, Inc. to withdraw its application filed on September 25, 2014, for a certificate of public convenience and necessity to provide resold local exchange telecommunications services in California. This decision also grants Black Cloud Networks, Inc.'s motion to file Exhibit C of the application, containing its financial statements, as confidential material under seal.

**1. Background**

On September 25, 2014, Black Cloud Networks, Inc. (Black Cloud or applicant), a California corporation, filed an application for a certificate of public convenience and necessity (CPCN) to provide local exchange switchless resale telecommunications services throughout the state of California. Applicant is currently registered as a voice over internet protocol (VoIP) provider in

California and was seeking to expand its authority to include non-facilities based resale of local exchange services provided by other certified carriers.

Applicant's principal place of business is located at 3324 Heatherbrook Drive, Stockton, California, 95219.

The application was noticed on the daily calendar on October 2, 2014. No protests were filed.

On December 15, 2014, the assigned Administrative Law Judge (ALJ) issued a ruling directing applicant to provide additional information which applicant responded to on January 27, 2015. Applicant's response however, was incomplete as it failed to provide adequate proof of compliance with the financial requirement necessary to obtain a CPCN.<sup>1</sup>

On March 4, 2015, Black Cloud filed a request to withdraw the application, without prejudice to refile again at a later date, because their plan to offer local exchange telecommunications services is no longer part of their immediate business model. Black Cloud is registered as a VoIP provider in California and will continue to provide VoIP services, but will not provide local exchange services.

## **2. Request to File Under Seal**

Pursuant to Rule 11.4 of the Rules of Practice and Procedure and General Order 66-C, Black Cloud filed a motion for leave to file Exhibit C of the application, containing its financial statements, as confidential materials under seal. Black Cloud represents that the information is sensitive, and disclosure

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<sup>1</sup> The financial requirement for Competitive Local Exchange Carriers (CLEC) is contained in D.95-12-056, Appendix C. The financial requirement for Non Dominant Interexchange Carriers (NDIEC) is contained in D.91-10-041.

could place Black Cloud at an unfair business disadvantage. We have granted similar requests in the past and do so here.

### **3. Categorization and Need for Hearings**

In Resolution ALJ 176-3344, dated October 16, 2014, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been filed. Given these developments, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations.

### **4. Waiver of Comment Period**

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment is waived.

### **5. Assignment of Proceeding**

Carla J. Peterman is the assigned Commissioner and Rafael L. Lirag is the assigned ALJ in this proceeding.

### **Findings of Fact**

1. Notice of the application appeared on the Daily Calendar on October 2, 2014. No protests have been filed. A hearing is not required.
2. Black Cloud proposed to provide non-facilities based resale of service by inter-connecting with existing providers.
3. Pursuant to Rule 11.4 and General Order 66-C, Black Cloud filed a motion for leave to file confidential material under seal, Exhibit C of the application, containing its financial statements.
4. On March 4, 2015, Black Cloud filed a request to withdraw the application without prejudice to refile at a later date.

**Conclusions of Law**

1. Black Cloud's request to withdraw the application without prejudice to refile at a later date should be granted.
2. Black Cloud's motion to file under seal Exhibit C of the application, containing its financial statements, should be granted for three years.

**O R D E R**

**IT IS ORDERED** that:

1. Black Cloud Networks, Inc.'s request to withdraw Application 14-09-017 without prejudice to refile at a later date is granted.
2. If Black Cloud Networks, Inc. files a subsequent application, it must reference this application.
3. Black Cloud Networks, Inc.'s motion to file under seal Exhibit C of its application, containing its financial statements, is granted for a period of three years after the date of this order. During this three-year period, this information shall not be publicly disclosed except on further Commission order or Administrative Law Judge ruling. If Black Cloud Networks, Inc. believes that it is necessary for this information to remain under seal for longer than three years, Black Cloud Networks, Inc. may file a new motion showing good cause for extending this order by no later than 30 days before the expiration of this order.
4. Application 14-09-017 is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.